

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MARK L. FELDHOUSEN,

Plaintiff,

v.

Civil No.

THE CITY OF NIAGARA FALLS, NEW YORK and  
THE CITY OF NIAGARA FALLS POLICE  
DEPARTMENT,

Defendants.

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**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1441, 1443, and 1446, the action entitled *Mark L. Feldhousen v. The City of Niagara Falls, New York and The City of Niagara Falls Police Department* (collectively, "the Defendants"), commenced in the Supreme Court of the State of New York for the County of Niagara, Index No.: 146923, is removed by the Defendants.

Defendants, by and through their attorneys, respectfully state the following as grounds for removing this action:

1. Defendants remove this action to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446.

2. Defendants have complied with the requirements of Local Rule of Civil Procedure 81 by: (i) completing a civil cover sheet; (ii) submitting the requisite \$350.00 filing fee; and (iii) attaching an index identifying all documents filed in the state court action,

individually tabbed, and arranged in chronological order according to the state court filing date. The index is attached as **Exhibit A**.

3. On or about April 24, 2012, the plaintiff commenced this action against the Defendants by filing a summons and complaint in the Office of the Clerk for Niagara County. A copy of the Summons and the Complaint are attached as **Tabs 1 and 2** of Exhibit A.

4. Defendants' Notice of Removal is filed within 30 days of receiving on April 26, 2012, through "service or otherwise," a copy of the Summons and Complaint, attached as tabs 1 and 2 to Exhibit A.

5. A copy of the written notice required by 28 U.S.C. § 1446(d), addressed to the adverse party and to the Clerk of the Supreme Court, Niagara County, is attached as **Exhibit B**, and will be filed in the Niagara County Clerk's Office and served on counsel for the plaintiff after the filing of this Notice of Removal in the United States District Court for the Western District of New York.

6. In his complaint, plaintiff seeks, among other things, to recover against the Defendants for alleged violations of the federal Age Discrimination in Employment Act, 29 U.S.C. § 621. In addition, plaintiff brings similar claims under Section 296 of the New York Executive Law.

**JURISDICTION EXISTS UNDER 28 U.S.C. § 1331**

7. This Notice of Removal is filed under 28 U.S.C. § 1441(c) on the grounds that the complaint alleges a civil cause of action over which this Court has original jurisdiction

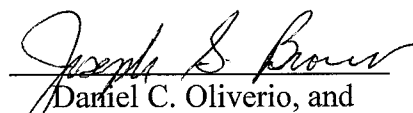
pursuant to 28 U.S.C. § 1331 because the claims asserted and the questions raised by the plaintiff, or some of them, present federal questions arising under the Constitution, laws, or treaties of the United States, specifically, 29 U.S.C. § 621.

8. Defendants have completed and provided a Civil Cover Sheet and a check in the amount of \$350.00 for the filing fee as required by Local Rule of Civil Procedure 81.

**WHEREFORE**, Defendants remove this action, currently docketed in the New York State Supreme Court, Niagara County, Index No. 146923, to the United States District Court for the Western District of New York and requests that the United States District Court for the Western District of New York assume jurisdiction over the entirety of this action and exclude any further proceedings in the New York State Supreme Court.

Dated: May 25, 2012  
Buffalo, New York

**HODGSON RUSS** LLP  
*Attorneys for Defendants*

By:   
Daniel C. Oliverio, and  
Joseph S. Brown  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202-4040  
Tel: 716.856.4000

# Exhibit A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MARK L. FELDHOUSEN,

Plaintiff,

v.

Civil No.:

THE CITY OF NIAGARA FALLS, NEW YORK and  
THE CITY OF NIAGARA FALLS POLICE  
DEPARTMENT,

Defendants.

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**LOCAL RULE OF CIVIL PROCEDURE 81 INDEX**

Tab 1. Summons Filed on April 24, 2012

Tab 2. Complaint Filed on April 24, 2012

Dated: May 25, 2012  
Buffalo, New York

**HODGSON RUSS** LLP  
*Attorneys for Defendants*

By:   
Daniel C. Oliverio, and  
Joseph S. Brown  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202-4040  
Tel: 716.856.4000

TO: Jon Ross R. Wilson, Esq.  
Law Office of Jon Louis Wilson  
Attorneys for Plaintiff  
The Centennial House  
111 Ontario Street  
Lockport, New York 14094  
(716) 434-2010

Tab 1

**STATE OF NEW YORK  
SUPREME COURT :: COUNTY OF NIAGARA**

---

**MARK L. FELDHOUSEN**  
4903 Thrall Road  
Lockport, New York 14094,

Plaintiff,

-vs-

**THE CITY OF NIAGARA FALLS, NEW YORK**

745 Main Street

P.O. Box 69

Niagara Falls, New York 14302-0069,

and

**THE CITY OF NIAGARA FALLS POLICE DEPARTMENT**

1925 Main Street

Niagara Falls, New York 14305,

Defendants.

**SUMMONS**

Index No.:

146923

**ORIGINAL FILED**

APR 24 2012

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

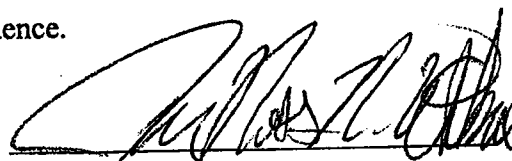
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**TO THE ABOVE-NAMED DEFENDANTS:**

**You Are Hereby Summoned** to answer the Complaint in this action, and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you, personally, within the state, or within 30 days after completion of service, where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you, by default, for the relief demanded in the Complaint.

Trial to be held in the County of Niagara.  
The basis of the venue is the Plaintiff's residence.  
The Plaintiff resides in Niagara County.

**Dated:** This 23<sup>rd</sup> day of April, 2012  
Lockport, New York



**LAW OFFICE OF JON LOUIS WILSON**  
Jon Ross R. Wilson, Esq., of Counsel  
Attorneys for the Plaintiff  
The Centennial House  
111 Ontario Street  
Lockport, New York 14094  
(716) 434-2010

**To the above-named Defendants:**

The nature of the action is an employment discrimination claim.  
The relief sought is a money judgment for Plaintiff's damages and equitable relief.



Tab 2

**STATE OF NEW YORK  
SUPREME COURT :: COUNTY OF NIAGARA**

---

**MARK L. FELDHOUSEN**  
4903 Thrall Road  
Lockport, New York 14094,

Plaintiff,

-vs-

**COMPLAINT**

Index No.:

146923

**ORIGINAL FILED**

**THE CITY OF NIAGARA FALLS, NEW YORK**

745 Main Street

P.O. Box 69

Niagara Falls, New York 14302-0069,

and

**THE CITY OF NIAGARA FALLS POLICE DEPARTMENT**

1925 Main Street

Niagara Falls, New York 14305,

Defendants.

APR 24 2012

WAYNE F. JAGOW  
NIAGARA COUNTY CLERK

---

Plaintiff, **MARK L. FELDHOUSEN**, by his attorneys, **THE LAW OFFICE OF JON LOUIS WILSON, JON ROSS R. WILSON, ESQ.**, of Counsel, as and for his Complaint herein, respectfully alleges as follows:

1.) That, at all relevant times hereinafter and during the following alleged incidents, the Plaintiff, **MARK L. FELDHOUSEN**, hereinafter referred to as "Mr. Feldhousen," was and continues to be a resident of the Town of Lockport, County of Niagara and State of New York. Plaintiff is a Caucasian male, born on November 5, 1951.

2.) That, upon information and belief, at all relevant times hereinafter and during the following alleged incidents, the Defendant, **THE CITY OF NIAGARA FALLS, NEW YORK**, hereinafter referred to as "Niagara Falls," was and continues to be a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York, with its principal office located at City Hall, 745 Main Street, Niagara Falls, New York.

3.) That, upon information and belief, at all relevant times hereinafter and during the following alleged incidents, the Defendant, **THE CITY OF NIAGARA FALLS POLICE DEPARTMENT**, hereinafter referred to as "NFPD," was and continues to be a division or department of the aforesaid City of Niagara Falls duly organized and existing under and by virtue of the laws of the State of New York and the Niagara Falls City Charter, with its principle office located at 1925 Main Street, Niagara Falls, New York.

4.) That, on or about October 18, 1971, Mr. Feldhousen was hired by the Defendants as an officer with the NFPD. From the date of hire in October 1971 until approximately January 2002, Mr. Feldhousen was assigned to the NFPD's patrol division. In or around January 2002, Mr. Feldhousen was transferred to the NFPD's warrant division. In or around the summer or fall of 2003, Mr. Feldhousen took a leave of absence from his position with the NFPD due to certain health issues. In or around October 2003, returned to work with the Defendants and was assigned to the NFPD's traffic division.

5.) That, on or about September 17, 2009, Mr. Feldhousen was transferred by the Defendants from the NFPD's traffic division to the detention area of the NFPD as a male jailer. Upon information and belief, Defendants used a younger, less experienced and less qualified officer to replace Mr. Feldhousen in the NFPD's traffic division.

6.) That, on or about April 6, 2010, Mr. Feldhousen was transferred by the Defendants from the NFPD's detention area to an administrative position in the NFPD's command area, hereafter referred to as "Post 1," where he was ordered not to perform any official police functions. Upon information and belief, Defendants used a younger, less experienced and less qualified officer to replace Mr. Feldhousen in the NFPD's detention area.

7.) That, on or about September 9, 2010, the Defendants ordered Mr. Feldhousen to undergo evaluations by a psychologist and a neurologist, ostensibly under the guise of a fitness for duty examination. Upon information and belief, the Defendants lacked any reasonable and/or credible basis for ordering said evaluations.

8.) That, on or about October 5, 2010, Mr. Feldhousen filed a complaint against the Defendants alleging discrimination, based upon age, harassment and retaliation, with the Defendant, Niagara Falls', EEO Officer for Compliance and Workforce Diversity, Ruby Pulliam.

9.) That, on or about October 6, 2010, the Defendants placed Mr. Feldhousen on administrative leave, effective October 7, 2010 and continuing until further notice. Upon information and belief, Defendants used a younger, less experienced and less qualified officer to replace Mr. Feldhousen in the NFPD's Post 1.

10.) That, on or about October 19, 2010, Mr. Feldhousen filed a second complaint against the Defendants alleging discrimination, based upon retaliation, with the Defendant, Niagara Falls', EEO Officer for Compliance and Workforce Diversity, Ruby Pulliam.

11.) That, on or about October 21, 2010, Mr. Feldhousen filed yet another complaint against the Defendants alleging discrimination, based upon disability, age, harassment and retaliation, with the Defendant, Niagara Falls', EEO Officer for Compliance and Workforce Diversity, Ruby Pulliam.

12.) That, upon information and belief, the Defendants failed to conduct an adequate and/or reasonable investigation, either formal or informal, into Mr. Feldhousen's complaints as filed with the Defendant, Niagara Falls', EEO Officer for Compliance and Workforce Diversity, Ruby Pulliam.

21.) That, a legitimate, nondiscriminatory and/or nonretaliatory reason does not exist to justify Defendants' discriminatory and/or retaliatory treatment of Mr. Feldhausen.

22.) That, Mr. Feldhausen has satisfied all of the procedural and administrative requirements set forth in the Age Discrimination in Employment Act (29 U.S.C.A. § 621, et seq.), in particular:

a. Plaintiff filed a timely charge of discrimination with the appropriate state fair employment agencies;

b. Plaintiff filed a timely written charge of discrimination with the United States Equal Employment Opportunity Commission (EEOC);

c. Plaintiff received a "Notice of Right to Sue" from the EEOC, dated January 24, 2012, on or about January 25, 2012, a copy of which is attached hereto and made a part hereof as Exhibit "A;"

d. The complaint in this action was filed with this Court within ninety (90) days from the receipt of the "Notice of Right to Sue."

23.) That, the actions of the Defendants make reinstatement ineffective as a make-whole remedy, thereby entitling Mr. Feldhausen to front pay in lieu of reinstatement.

24.) That, Mr. Feldhausen has been unable, despite reasonable efforts, to find comparable employment.

25.) That, as a direct and/or proximate result of the Defendants' discrimination and/or retaliation against Mr. Feldhausen, he has suffered and continues to suffer irreparable injury and substantial losses, including the loss of past and future earnings, bonuses, deferred compensation, and other employment benefits.

**AS AND FOR A SECOND CAUSE OF ACTION ON  
BEHALF OF THE PLAINTIFF, MARK L. FELDHOUSEN, AGAINST  
THE DEFENDANTS.**

26.) That, Plaintiff repeats, realleges and reiterates each and every allegation contained in paragraphs "1" through "25," hereinbefore with the same force and effect as if said allegations were more fully set forth hereinafter.

27.) That, at all relevant times herein and during the aforementioned alleged incidents, Mr. Feldhousen was and "employee" within the meaning of New York Executive Law § 292.

28.) That, at all relevant times herein and during the aforementioned alleged incidents, the Defendants named herein were at all relevant times herein "employer(s)" within the meaning of New York Executive Law § 292.

29.) That, Mr. Feldhousen has been discriminated against and retaliated against by the Defendants on the basis of his age in violation of New York Executive Law § 296 by Defendants engaging in a course of conduct, including, but not limited to, the September 17, 2009 transfer from the NFPD's traffic division in favor of a younger, less experienced and less qualified officer, the April 6, 2010 transfer from the NFPD's detention area in favor of a younger, less experienced and less qualified officer, the September 9, 2010 order to undergo evaluations by a psychologist and a neurologist, placing Mr. Feldhousen on administrative leave on or about October 6, 2010 from the NFPD's Post 1 and replacing him with a younger, less experienced and less qualified officer, the December 22, 2010 suspension and initiation of proceedings pursuant to § 75 of the New York Civil Service Law and, thereafter, the replacement of Mr. Feldhousen with a younger, less experienced and less qualified officer, and, the May 2011 constructive discharge of Mr. Feldhousen in favor of a younger, less experienced and less qualified officer.

30.) That, the conduct and communications of the Defendants substantially interfered with the employment of the Plaintiff and created an intimidating, hostile, and offensive work environment in violation of New York Executive Law § 296, specifically §§ 296(1), 296(1-a), 296(6) and 296(7).

31.) That, the actions of the Defendants make reinstatement ineffective as a make-whole remedy, thereby entitling Plaintiff to front pay in lieu of reinstatement.

32.) That, the Plaintiff has been unable, despite reasonable efforts, to find comparable employment.

33.) That, as a direct and/or proximate result of said unlawful employment practices and disregard for Plaintiff's rights and sensibilities, Plaintiff has lost and will continue to lose substantial income including, but not limited to, wages, social security, fringes, pension and seniority benefits and other benefits due him.

34.) That, as a further direct and/or proximate result of said unlawful employment practices, the Plaintiff has suffered the indignity of discrimination, the invasion of his rights to be free from discrimination and/or discriminatory retaliation, and great humiliation, which has manifested in physical illness and emotional stress.

35.) That, as a further direct and proximate result of said unlawful employment practices, the Plaintiff has suffered extreme mental anguish, outrage, severe anxiety, painful embarrassment among his friends and co-workers, damage to his good reputation, disruption of his personal life and loss of enjoyment of the ordinary pleasures of everyday life.

**WHEREFORE**, the Plaintiff, **MARK L. FELDHOUSEN**, respectfully requests the following relief:

**As and for Plaintiff's First Cause of Action:**

1.) An order prohibiting Defendants from continuing or maintaining the policy, practice and/or custom of denying job benefits to employees on the basis of age;

2.) An award to Plaintiff of his actual damages in an amount sufficient to confer jurisdiction upon this Court and which is in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction for loss of wages, benefits and promotional opportunities, including an award of front pay compensating Plaintiff for loss of future salary and benefits;

3.) An award to Plaintiff of double his actual damages in an amount sufficient to confer jurisdiction upon this Court and which is in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction as liquidated damages under 29 U.S.C.A. § 626(b);

4.) An award to Plaintiff of the costs of this action, together with his reasonable attorneys' fees; and

5.) Such other and further relief as to this Court may seem just, proper and equitable.

**As and for Plaintiff's Second Cause of Action:**

1.) Actual and consequential damages as may be proven, plus interest, all in a sum sufficient to confer jurisdiction upon this Court and which is in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction;

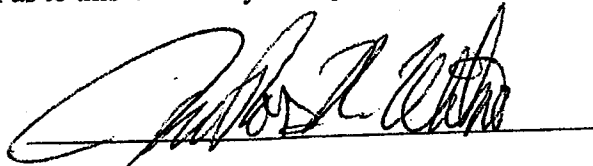
2.) Compensatory damages to compensate for the pain, suffering, and humiliation Plaintiff suffered as a result of Defendants' illegal action, all in a sum sufficient to confer



jurisdiction upon this Court and which is in excess of the jurisdictional limits of all lower courts which would otherwise have jurisdiction; and,

3.) Such other and further relief as to this Court may seem just, proper and equitable.

**DATED:** April 23, 2012  
Lockport, New York



**JON ROSS R. WILSON**

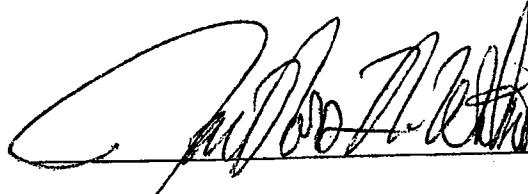
**THE LAW OFFICE OF JON LOUIS WILSON**  
**Jon Ross R. Wilson, Esq., of Counsel**  
**Attorneys for Plaintiff**  
**The Centennial House**  
**111 Ontario Street**  
**Lockport, New York 14094**  
**(716) 434-2010**

ATTORNEY CERTIFICATION

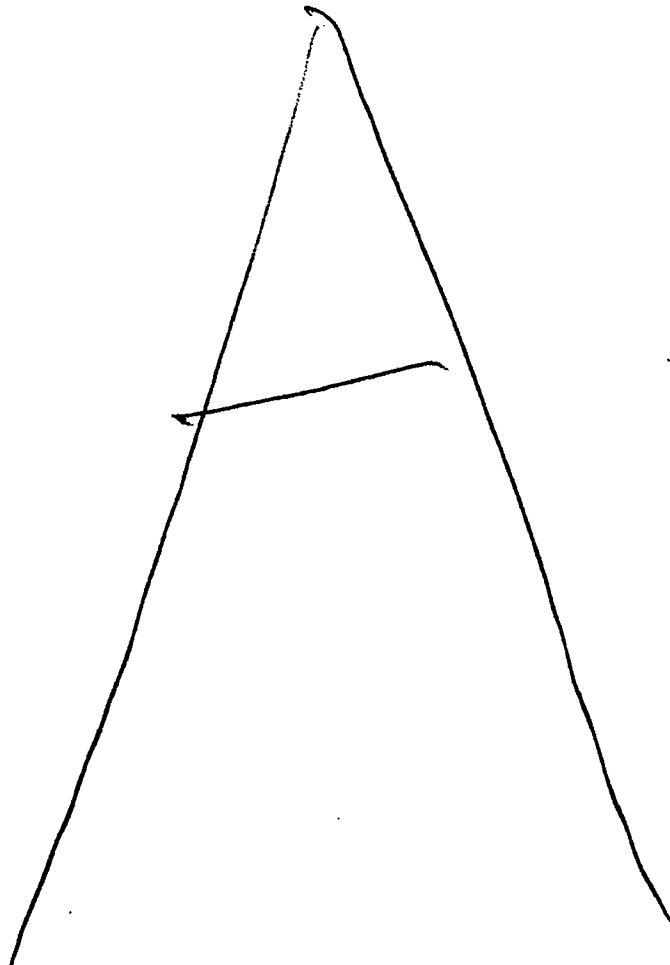
STATE OF NEW YORK )  
COUNTY OF NIAGARA )ss.

I, JON ROSS R. WILSON, ESQ., hereby certify, under penalty of perjury, that, to the best of my knowledge, information and belief, formed after an inquiry, reasonable under the circumstances, that the presentation of this application and the contentions herein are not frivolous as defined in subsection (c) of § 130-1.1 of the Rules of the Chief Administrator of the Courts and, furthermore, that I have no actual knowledge that the substance of any statement of fact contained in the annexed Complaint is false and that this Certification is based solely and exclusively upon the information provided by the Plaintiff.

DATED: April 23, 2012



JON ROSS R. WILSON, ESQ.





**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Buffalo Local Office**

6 Fountain Plaza, Suite 350  
Buffalo, NY 14202  
(716) 551-4442  
TTY (716) 551-5923  
FAX (716) 551-4387



Mark L. Feldhausen  
4903 Thrall Road  
Lockport, NY 14094

Re: EEOC Charge No.: 525-2011-00030  
Mark L. Feldhausen v. NFPD

Dear Mr. Feldhausen:

With regard to the basis of disability, your case has been referred to the U.S. Department of Justice (DOJ) for review to determine whether DOJ will bring suit in Federal District Court against the above named Respondent. A decision should be forthcoming in the near future.

If DOJ decides to bring a civil action under Title I of the Americans with Disabilities Act of 1990, as amended, you may have the right to seek to intervene in such an action. If DOJ decides that it will not bring suit, you will be notified and advised of your private suit rights.

However, with regard to the basis of age, enclosed is your notice of right to sue.

Sincerely,

A handwritten signature in cursive script, reading "John E. Thompson, Jr.", written over a horizontal line.

John E. Thompson, Jr., Director  
Buffalo Local Office

Date: JAN 24 2012

Encl: Notice of Right to Sue  
CC: Jon Ross R. Wilson, Esq.  
The Law Office of Jon Louis Wilson  
The Centennial House  
111 Ontario Street  
Lockport, NY 14094

EEOC Form 161-A (11/09)

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**NOTICE OF RIGHT TO SUE**  
**(CONCILIATION FAILURE)**To: **Mark Feldhausen**  
**4903 Thrall Road**  
**Lockport, NY 14094**From: **Buffalo Local Office**  
**6 Fountain Plaza**  
**Suite 350**  
**Buffalo, NY 14202**On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

**525-2011-00030****Jeremy M. Boyd,**  
**Investigator****(716) 551-4442****TO THE PERSON AGGRIEVED:**

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

**- NOTICE OF SUIT RIGHTS -***(See the additional information attached to this form.)*

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



**John E. Thompson,**  
**Local Office Director**

**JAN 24 2012**

Enclosures(s)

*(Date Mailed)*

CC: **Joyce Mardon-serianni**  
**Human Resources**  
**NIAGARA FALLS POLICE DEPARTMENT**  
**1925 Main Street**  
**Niagara Falls, NY 14302**

**Jon Ross R. Wilson**  
**THE LAW OFFICE OF JON LOUIS WILSON**  
**The Centennial House**  
**111 Ontario Street**  
**Lockport, NY 14094**

**FACTS ABOUT FILING  
AN EMPLOYMENT DISCRIMINATION SUIT  
IN FEDERAL COURT IN NEW YORK STATE**

You have received a document which is the final determination or other final action of the Commission. This ends our handling of your charge. The Commission's action is effective upon receipt. Now, you must decide whether you want to file a private lawsuit in court. This fact sheet answers several commonly asked questions about filing a private lawsuit.

**WHERE SHOULD I FILE MY LAWSUIT?**

Federal District Courts have strict rules concerning where you may file a suit. You may file a lawsuit against the respondent (employer, union, or employment agency) named in your charge. The appropriate court is the district court which covers either the county where the respondent is located or the county where the alleged act of discrimination occurred. New York State has four federal districts:

- The United States District Court for the Western District of New York is located at 68 Court Street in Buffalo. It covers the counties of Allegheny, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates. (716) 551-4211  
<http://www.nywd.uscourts.gov>
- The United States District Court for the Northern District of New York is located at 100 South Clinton Street in Syracuse and covers the counties of Albany, Broome, Cayuga, Chanango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Ulster, Warren, and Washington. This District Court's pro Se Attorney has offices at 10 Broad Street in Utica New York. (315) 234-8500  
<http://www.nynd.uscourts.gov>
- The United States District Court for the Southern District of New York is located at 500 Pearl Street in Manhattan. It covers the counties of Bronx, Dutchess, New York (Manhattan), Orange, Putnam, Rockland, Sullivan, and Westchester. (212) 805-0136  
<http://www.nysd.uscourts.gov>
- The United States District Court for the Eastern District of New York is located at 225 Cadman Plaza in Brooklyn and covers the counties of Kings (Brooklyn), Nassau, Queens, Richmond (Staten Island), and Suffolk. (718) 613-2600 <http://www.nyed.uscourts.gov>

**WHEN MUST I FILE MY LAWSUIT?**

Your private lawsuit must be filed in U.S. District Court within 90 days of the date you receive the enclosed final action. Once this 90 day period is over, unless you have filed suit, you will have lost your right to sue.

(Over)

# Exhibit B

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NIAGARA

---

MARK L. FELDHOUSEN,

Plaintiff,

v.

Index No.: 146923

THE CITY OF NIAGARA FALLS, NEW YORK and  
THE CITY OF NIAGARA FALLS POLICE  
DEPARTMENT,

Defendants.

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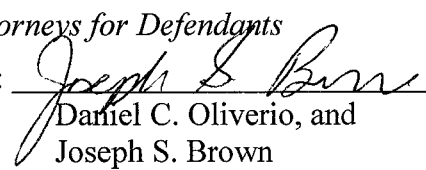
**NOTICE OF FILING OF NOTICE OF REMOVAL**

<b>TO:</b> Jon Ross R. Wilson, Esq. Law Office of Jon Louis Wilson Attorneys for Plaintiff The Centennial House 111 Ontario Street Lockport, New York 14094 (716) 434-2010	NIAGARA COUNTY CLERK'S OFFICE P.O. Box 461 Lockport, New York 14095 (716) 439-7025
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**PLEASE TAKE NOTICE THAT**, a true copy of the Notice of Removal filed in the Office of the Clerk of the United States District Court for the Western District of New York on May 25, 2012 is attached as **Exhibit A**.

Dated: May 25, 2012  
Buffalo, New York

**HODGSON RUSS** LLP  
*Attorneys for Defendants*

By:   
Daniel C. Oliverio, and  
Joseph S. Brown  
The Guaranty Building  
140 Pearl Street, Suite 100  
Buffalo, New York 14202-4040  
Tel: 716.856.4000